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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,088	03/30/2004	Sunil Kochhar	88265-6699	3008
28765	7590	09/16/2004	EXAMINER	
WINSTON & STRAWN PATENT DEPARTMENT 1400 L STREET, N.W. WASHINGTON, DC 20005-3502			HARLE, JENNIFER I	
			ART UNIT	PAPER NUMBER
			1654	

DATE MAILED: 09/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

## Application No.

10/812,088

## Applicant(s)

KOCHHAR ET AL.

## Examiner

Jennifer I. Harle

## Art Unit

1654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-16 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

1. Claims 1-5 (in part) and 8-15 (in part), drawn to a flavor active compound obtainable from the Maillard reaction by subjecting the dipeptide, Arg-Phe, with reducing sugars, classified in class 514, subclass 23.
2. Claims 1-5 (in part) and 8-15 (in part), drawn to a flavor active compound obtainable from the Maillard reaction by subjecting the dipeptide, Ala-Glu, with reducing sugars, classified in class 514, subclass 23.
3. Claims 1-5 (in part) and 8-15 (in part), drawn to a flavor active compound obtainable from the Maillard reaction by subjecting the dipeptide, Glu-Ala, with reducing sugars, classified in class 514, subclass 23.
4. Claims 1-5 (in part) and 8-15 (in part), drawn to a flavor active compound obtainable from the Maillard reaction by subjecting the dipeptide, Val-Ala, with reducing sugars, classified in class 514, subclass 23.
5. Claims 1-5 (in part) and 8-15 (in part), drawn to a flavor active compound obtainable from the Maillard reaction by subjecting the dipeptide, Phe-Glu, with reducing sugars, classified in class 514, subclass 23.
6. Claims 1-5 (in part) and 8-15 (in part), drawn to a flavor active compound obtainable from the Maillard reaction by subjecting the dipeptide, Thr-Leu, with reducing sugars, classified in class 514, subclass 23.

Art Unit: 1654

7. Claims 1-5 (in part) and 8-15 (in part), drawn to a flavor active compound obtainable from the Maillard reaction by subjecting the dipeptide, Tyr-Val, with reducing sugars, classified in class 514, subclass 23.
8. Claims 1-5 (in part) and 8-15 (in part), drawn to a flavor active compound obtainable from the Maillard reaction by subjecting the dipeptide, Val-Tyr, with reducing sugars, classified in class 514, subclass 23.
9. Claims 1-5 (in part) and 8-15 (in part), drawn to a flavor active compound obtainable from the Maillard reaction by subjecting the dipeptide, Pro-Val, with reducing sugars, classified in class 514, subclass 23.
10. Claims 1-5 (in part) and 8-15 (in part), drawn to a flavor active compound obtainable from the Maillard reaction by subjecting the dipeptide, Asp-Ala, with reducing sugars, classified in class 514, subclass 23.
11. Claims 1-5 (in part) and 8-15 (in part), drawn to a flavor active compound obtainable from the Maillard reaction by subjecting the dipeptide, Ala-Asp, with reducing sugars, classified in class 514, subclass 23.
12. Claims 1-5 (in part) and 8-15 (in part), drawn to a flavor active compound obtainable from the Maillard reaction by subjecting the dipeptide, Trp-Ala, with reducing sugars, classified in class 514, subclass 23.
13. Claims 1-5 (in part) and 8-15 (in part), drawn to a flavor active compound obtainable from the Maillard reaction by subjecting the dipeptide, Phe-Ala, with reducing sugars, classified in class 514, subclass 23.

Art Unit: 1654

14. Claims 1-5 (in part) and 8-15 (in part), drawn to a flavor active compound obtainable from the Maillard reaction by subjecting the dipeptide, Ala-Phe, with reducing sugars, classified in class 514, subclass 23.
15. Claims 1-5 (in part) and 8-15 (in part), drawn to a flavor active compound obtainable from the Maillard reaction by subjecting the dipeptide, Tyr-Ala, with reducing sugars, classified in class 514, subclass 23.
16. Claims 1-5 (in part) and 8-15 (in part), drawn to a flavor active compound obtainable from the Maillard reaction by subjecting the dipeptide, Ala-Tyr, with reducing sugars, classified in class 514, subclass 23.
17. Claims 1-5 (in part) and 8-15 (in part), drawn to a flavor active compound obtainable from the Maillard reaction by subjecting the dipeptide, Lys-Glu, with reducing sugars, classified in class 514, subclass 23.
18. Claims 1-5 (in part) and 8-15 (in part), drawn to a flavor active compound obtainable from the Maillard reaction by subjecting the dipeptide, Lys-Phe, with reducing sugars, classified in class 514, subclass 23.
19. Claims 1-5 (in part) and 8-15 (in part), drawn to a flavor active compound obtainable from the Maillard reaction by subjecting the dipeptide, Val-Lys, with reducing sugars, classified in class 514, subclass 23.
20. Claims 1-5 (in part) and 8-15 (in part), drawn to a flavor active compound obtainable from the Maillard reaction by subjecting the dipeptide, Val-Phe, with reducing sugars, classified in class 514, subclass 23.

Art Unit: 1654

21. Claims 1-5 (in part) and 8-15 (in part), drawn to a flavor active compound obtainable from the Maillard reaction by subjecting the dipeptide, Leu-Leu, with reducing sugars, classified in class 514, subclass 23.
22. Claims 1-5 (in part) and 8-15 (in part), drawn to a flavor active compound obtainable from the Maillard reaction by subjecting the dipeptide, Met-Tyr, with reducing sugars, classified in class 514, subclass 23.
23. Claims 6-7 (in part) and 15-16 (in part), drawn to a food/cosmetic/pharmaceutical product containing a flavor effective amount of a flavor active compound according to Group 1, classified in class 426/424, subclass 531+/410 or 439+.
24. Claims 6-7 (in part) and 15-16 (in part), drawn to a food/cosmetic/pharmaceutical product containing a flavor effective amount of a flavor active compound according to Group 2, classified in class 426/424, subclass 531+/410 or 439+.
25. Claims 6-7 (in part) and 15-16 (in part), drawn to a food/cosmetic/pharmaceutical product containing a flavor effective amount of a flavor active compound according to Group 3, classified in class 426/424, subclass 531+/410 or 439+.
26. Claims 6-7 (in part) and 15-16 (in part), drawn to a food/cosmetic/pharmaceutical product containing a flavor effective amount of a flavor active compound according to Group 4, classified in class 426/424, subclass 531+/410 or 439+.
27. Claims 6-7 (in part) and 15-16 (in part), drawn to a food/cosmetic/pharmaceutical product containing a flavor effective amount of a flavor active compound according to Group 5, classified in class 426/424, subclass 531+/410 or 439+.

Art Unit: 1654

28. Claims 6-7 (in part) and 15-16 (in part), drawn to a food/cosmetic/pharmaceutical product containing a flavor effective amount of a flavor active compound according to Group 6, classified in class 426/424, subclass 531+/410 or 439+.
29. Claims 6-7 (in part) and 15-16 (in part), drawn to a food/cosmetic/pharmaceutical product containing a flavor effective amount of a flavor active compound according to Group 7, classified in class 426/424, subclass 531+/410 or 439+.
30. Claims 6-7 (in part) and 15-16 (in part), drawn to a food/cosmetic/pharmaceutical product containing a flavor effective amount of a flavor active compound according to Group 8, classified in class 426/424, subclass 531+/410 or 439+.
31. Claims 6-7 (in part) and 15-16 (in part), drawn to a food/cosmetic/pharmaceutical product containing a flavor effective amount of a flavor active compound according to Group 9, classified in class 426/424, subclass 531+/410 or 439+.
32. Claims 6-7 (in part) and 15-16 (in part), drawn to a food product/cosmetic product or pharmaceutical product, containing a flavor effective amount of a flavor active compound according to Group 10, classified in class 426/424, subclass 531+/410 or 439+.
33. Claims 6-7 (in part) and 15-16 (in part), drawn to a food product/cosmetic product or pharmaceutical product, containing a flavor effective amount of a flavor active compound according to Group 11, classified in class 426/424, subclass 531+/410 or 439+.
34. Claims 6-7 (in part) and 15-16 (in part), drawn to a food product/cosmetic product or pharmaceutical product, containing a flavor effective amount of a flavor active

Art Unit: 1654

compound according to Group 12, classified in class 426/424, subclass 531+/410 or 439+.

35. Claims 6-7 (in part) and 15-16 (in part), drawn to a food product/cosmetic product or pharmaceutical product, containing a flavor effective amount of a flavor active compound according to Group 13, classified in class 426/424, subclass 531+/410 or 439+.

36. Claims 6-7 (in part) and 15-16 (in part), drawn to a food product/cosmetic product or pharmaceutical product, containing a flavor effective amount of a flavor active compound according to Group 14, classified in class 426/424, subclass 531+/410 or 439+.

37. Claims 6-7 (in part) and 15-16 (in part), drawn to a food product/cosmetic product or pharmaceutical product, containing a flavor effective amount of a flavor active compound according to Group 15, classified in class 426/424, subclass 531+/410 or 439+.

38. Claims 6-7 (in part) and 15-16 (in part), drawn to a food product/cosmetic product or pharmaceutical product, containing a flavor effective amount of a flavor active compound according to Group 16, classified in class 426/424, subclass 531+/410 or 439+.

39. Claims 6-7 (in part) and 15-16 (in part), drawn to a food product/cosmetic product or pharmaceutical product, containing a flavor effective amount of a flavor active compound according to Group 17, classified in class 426/424, subclass 531+/410 or 439+.



Art Unit: 1654

40. Claims 6-7 (in part) and 15-16 (in part), drawn to a food product/cosmetic product or pharmaceutical product, containing a flavor effective amount of a flavor active compound according to Group 18, classified in class 426/424, subclass 531+/410 or 439+.
41. Claims 6-7 (in part) and 15-16 (in part), drawn to a food product/cosmetic product or pharmaceutical product, containing a flavor effective amount of a flavor active compound according to Group 19, classified in class 426/424, subclass 531+/410 or 439+.
42. Claims 6-7 (in part) and 15-16 (in part), drawn to a food product/cosmetic product or pharmaceutical product, containing a flavor effective amount of a flavor active compound according to Group 20, classified in class 426/424, subclass 531+/410 or 439+.
43. Claims 6-7 (in part) and 15-16 (in part), drawn to a food product/cosmetic product or pharmaceutical product, containing a flavor effective amount of a flavor active compound according to Group 21, classified in class 426/424, subclass 531+/410 or 439+.
44. Claims 6-7 (in part) and 15-16 (in part), drawn to a food product/cosmetic product or pharmaceutical product, containing a flavor effective amount of a flavor active compound according to Group 22, classified in class 426/424, subclass 531+/410 or 439+.

The inventions are distinct, each from the other because of the following reasons:

Art Unit: 1654

Inventions 1-22 and 23-44 are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, each of inventions 1-22 has separate utility such as flavorings in food, cosmetics, pharmaceuticals, toys, etc., i.e. different utilizations in different products and they can be used to create the aromas/scents associated with the flavors and thus could be used to create scents for uses in various products (See Specification pp. 2 and 9). See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and the search required for any of Groups 1-22 and 23-44 is not required, restriction for examination purposes as indicated is proper. These searches require different strategies based upon the use of different terminology, structure, databases and the like as there is no core structure or usage, i.e. cosmetics, food, pharmaceuticals and they all require multiple terminologies and different text and structure and sequence searches.

Claims 1-4, 6-8, and 10-16 are generic to a plurality of disclosed patentably distinct species comprising reducing sugars, i.e. as set forth in claims 5 and 9. Whichever Group 1-44, Applicant elects, Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Art Unit: 1654

Claims 1-9 and 15-16 generic to a plurality of disclosed patentably distinct species comprising flavorings for foods/cosmetics/pharmaceuticals with a specific flavoring, i.e. chocolate, cocoa, caramel, bread, or meat, i.e. claims 10-14. Whichever Group 1-44, Applicant elects, Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Claims 6-7 and 15-16 generic to a plurality of disclosed patentably distinct species comprising flavorings for foods/cosmetics/pharmaceuticals. If Applicant elects any of Groups 23-44, Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

The examiner notes that the election of species is made for the same reasons at the restriction, i.e. the searching is burdensome i.e. multiple databases, terminology, prior art, structures and the like are required to search the claims.

Art Unit: 1654

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer I. Harle whose telephone number is (571) 272-2763. The examiner can normally be reached on Monday through Thursday, 6:30 am to 5:00 pm,.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on (571) 272-0974. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jennifer Ione Harle  
September 7, 2004



CHRISTOPHER R. TATE  
PRIMARY EXAMINER